



STATE OF NEW JERSEY

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

In the Matter of Mehdi Adloo, Senior
Engineer Transportation (PS4304T),
Department of Transportation

Examination Appeal

CSC Docket No. 2018-793

ISSUED: APRIL 6, 2018 (HS)

Mehdi Adloo requests a make-up examination for Senior Engineer Transportation (PS4304T), Department of Transportation.

By way of background, the subject examination was scheduled for June 24, 2017. Candidates were sent notices dated June 1, 2017 informing them of the date, time and location for the examination. On June 12, 2017, the appellant requested a make-up examination due to religious reasons. The Division of Administrative Support and Logistics granted the appellant's request and scheduled him for a make-up examination on July 13, 2017. The appellant did not appear on this date and requested a make-up examination in four months due to medical reasons. In support of this second request, the appellant submitted a doctor's certification dated July 11, 2017 that indicated that the appellant had undergone foot surgery and had restrictions on standing and walking. The Division of Administrative Support and Logistics granted the appellant's second request and scheduled him for a make-up examination on August 17, 2017. The appellant did not appear on this date, and the instant request followed.

In his request to the Civil Service Commission (Commission), the appellant states that he could not appear for his scheduled make-up examination on August 17, 2017 because he was away from the country attending to ceremonies related to the death of his father-in-law. The appellant also notes his medical issues stemming from his foot surgery. In support, the appellant presents a copy of the death certificate dated August 11, 2016. He also presents another doctor's certification, dated August 30, 2017, which reiterates that the appellant had foot

surgery and that he was precluded from participating in the examination through November 30, 2017.

In addition, the appellant notes that he had been serving provisionally in the subject title but was returned to his prior-held permanent title and questions if he could be returned to the subject title.¹ He notes that in a letter dated November 9, 2017, the appointing authority advised that a certification had issued against his provisional position in the subject title. The letter further stated that due to the number of interested eligibles on the certification, it was necessary to return the appellant to his prior-held permanent title.

Agency records indicate that on August 28, 2017, a certification issued from the subject eligible list. A review of the certification indicates that 23 eligibles, including three at the appellant's location, were appointed effective November 25, 2017. Six eligibles, including four who would have accepted employment at the appellant's location, were currently interested.

CONCLUSION

N.J.A.C. 4A:4-2.9(b) provides that for professional level engineering promotional examinations, make-up examinations may be authorized only in cases of: (1) debilitating injury or illness requiring an extended convalescent period, provided the candidate submits a doctor's certification containing a diagnosis and a statement clearly showing that the candidate's physical condition precluded his or her participation in the examination; (2) death in the candidate's immediate family as evidenced by a copy of the death certificate; (3) a candidate's wedding which cannot be reasonably changed as evidenced by relevant documentation; (4) when required for certain persons returning from military service (*see N.J.A.C.* 4A:4-4.6A); or (5) error by the Civil Service Commission or appointing authority.

In this matter, the appellant requests another make-up examination on two bases: ongoing medical issues stemming from foot surgery he underwent on or about July 11, 2017, for which the appellant was previously granted a make-up examination, and that he had to travel internationally to attend to ceremonies related to the death of his father-in-law. However, the appellant did not provide the dates of travel. Moreover, the two reasons offered appear to be contradictory. In this regard, for a professional level engineering promotional examination, Civil Service rules authorize a make-up examination in the case of a *debilitating* injury or illness requiring an *extended convalescent period*. As such, it is unclear from the record how the appellant could have travelled internationally with such a condition. While the Commission is sympathetic to the appellant's circumstances, the

¹ Agency records indicate that the appellant received a provisional appointment to the subject title effective August 22, 2015 and was returned to his prior-held permanent title of Assistant Engineer, Transportation effective November 25, 2017.

Commission is unable to afford the requested relief based on the record in this matter. Since the appellant has effectively requested a make-up examination on the basis of conflicting reasons, the Commission cannot find a basis to grant the appellant this relief.

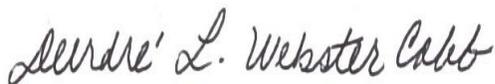
While the appellant also questions his return to his permanent title, it must be noted that a provisional appointee can be removed at any time and does not have a vested property interest in the provisional title. In other words, a provisional employee has no automatic right or expectation of achieving permanent appointment to the position that he is occupying. *See O'Malley v. Department of Energy*, 109 N.J. 309 (1987) (Appointing authority was not equitably estopped from removing a provisional employee even when the provisional employee occupied the position longer than the statutory one-year limit). Furthermore, the record reflects that a complete certification properly issued against the appellant's provisional position in the subject title. *See N.J.S.A. 11A:4-8 and N.J.A.C. 4A:4-2.9(b)*. Accordingly, the record evidences no error in the appointing authority's return of the appellant to his prior-held permanent title. *See N.J.A.C. 4A:4-1.9*.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 4TH DAY OF APRIL, 2018



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